

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	ROOS et al.	Examiner:	Hobbs, Lisa Joe
Serial No.:	10/521,038	Group Art Unit:	1657
Filed:	31 October 2005	Docket No.:	05822.0319USWO
Customer No.:	23552	Confirmation No.:	6646
Title:	LECTIN PATHWAY DEFICIENCY ASSAY		

Filed EFS-WEB

RESPONSE TO RESTRICTION REQUIREMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

This is in response to the Office Action mailed on September 16, 2009, the time for reply extended one month to October 16, 2009.

Restriction Requirement

The Office Action mailed on September 16, 2009 is in the form of a Restriction Requirement, and divides the claims into the following two groups:

Group I, claims 38-45, and

Group II, claims 46 – 60.

We note that on January 10, 2008, the Office previously issued a Restriction Requirement for this application. On February 11, 2008, a response to that Restriction Requirement was filed with the Office. In the Response filed on February 11, 2008, Group I was elected with traverse. In order to advance prosecution, a response to the Restriction Requirement mailed September 16, 2009 follows.

The Office Action alleges restriction to one of Groups I and II is required under

35 U.S.C. §§ 121 and 372. Applicants elect Group I (drawn to an in vitro method of functionally determining at physiological condition deficiencies in the lectin pathway of the complement system) with traverse. Claims 38-45 are encompassed by the elected Group.

During examination of a national stage application filed under 35 U.S.C. § 371, PCT Rules 13.1 and 13.2 must be followed when considering unity of invention of claims of different categories without regard to the practice in national applications filed under 35 U.S.C. § 111. See MPEP § 1850 citing *Caterpillar Tractor Co. v. Commissioner of Patents and Trademarks*, 650 F. Supp. 218 (E.D. Va. 1986). Applicants submit Group I and Group II are linked by the same or corresponding special technical feature that forms a single inventive concept. A "special technical feature" is defined in PCT Rule 13.2 as meaning those technical features that define a contribution which each of the inventions, considered as a whole, makes over the prior art.

The Patent Office asserts that the components of Group II (the kit) are not specifically designed for carrying out the claimed method. In the accompanying preliminary amendment, claim 46 has been amended to reflect the claimed method in the body of the claim. The kit claimed in the Instant Application provides a means for functionally determining in a body fluid from a mammal deficiencies in the lectin pathway of the complement system.

Applicants, therefore, submit the method and kit provide a pathway for assaying the lectin pathway of the complement system is one special technical feature of the claims that links Groups I and II so as to form a single inventive concept. Therefore, the Applicants respectfully request withdrawal of the restriction requirement.

Group II, claims 46 - 60, are drawn to a kit comprising components of the lectin pathway of the complement system. Because claims 46 - 60 are directed to a product, and if claims 46 - 60 are found to be allowable, withdrawn process claims, such as claims 38 - 60 (Group I), which requires all the limitations of claims 46 - 60, will be requested to be rejoined.

Election Requirement

The Office Action alleges an election of a single species under 35 U.S.C § 121. Applicants elect C1q complex inhibitors with traverse. The species election corresponds to claims 38-41, 46, and 48-50.

During examination of a national stage application filed under 35 U.S.C. § 371, PCT Rules 13.1 and 13.2 must be followed when considering unity of invention of claims of different categories without regard to the practice in national applications filed under 35 U.S.C. § 111. See MPEP § 1850 citing *Caterpillar Tractor Co. v. Commissioner of Patents and Trademarks*, 650 F. Supp. 218 (E.D. Va. 1986). Applicants submit the C1 complex inhibitor species are linked by the same or corresponding special technical feature that forms a single inventive concept. A "special technical feature" is defined in PCT Rule 13.2 as meaning those technical features that define a contribution which each of the inventions, considered as a whole, makes over the prior art.

It is believed that this application is in condition for examination. Early notice to this effect is earnestly solicited.


Please consider this a PETITION FOR EXTENSION OF TIME for a sufficient number of months to enter these papers or any future reply, if appropriate. Please charge any additional fees or credit overpayment to Deposit Account No. 13-2725.

Respectfully submitted,



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